

UNITED STATES CIRCUIT COURT OF APPEALS

FOR THE NINTH CIRCUIT

GENERAL ELECTRIC COMPANY,
a corporation, *Petitioner,*

vs.

C. A. BROWER, Trustee in Bank-
ruptcy of the Estate of ANDRUS-
CUSHING LIGHTING FIXTURE
COMPANY, a corporation, Bank-
rupt, *Respondent.*

IN THE MATTER OF ANDRUS-CUSHING
LIGHTING FIXTURE COMPANY, A
CORPORATION, BANKRUPT.

PETITION FOR REVISION.

PETITIONER'S BRIEF ON MOTION TO
DISMISS AND FOR CONTINUANCE.

FRANK H. KELLEY and
RALPH WOODS,

Attorneys for Petitioner.

JOHN M. GEARIN,
Of Counsel.

No. 2375

UNITED STATES CIRCUIT COURT OF APPEALS

FOR THE NINTH CIRCUIT

GENERAL ELECTRIC COMPANY,
a corporation, *Petitioner,*

vs.

C. A. BROWER, Trustee in Bank-
ruptcy of the Estate of ANDRUS-
CUSHING LIGHTING FIXTURE
COMPANY, a corporation, Bank-
rupt, *Respondent.*

IN THE MATTER OF ANDRUS-CUSHING
LIGHTING FIXTURE COMPANY, A
CORPORATION, BANKRUPT.

PETITION FOR REVISION.

PETITIONER'S BRIEF ON RESPONDENT'S
MOTION TO DISMISS PETITION.

The remedy is by petition to revise action of court below and not by appeal. The questions presented are matters of law only, and, whether interlocutory or final, are within the purview of Sec-

tion 24, par. b of the statute. To hold the remedy by appeal alone is operative, would in effect defeat the object of the statute which is to afford a prompt administration of bankrupt estates; for it is self evident that, as in the case at bar, if the question runs to what in fact constitutes assets of the estate applicable to the payment of proved debts, the whole administration of the estate must wait the determination of this question until the time for appeal has run.

The question in the case at bar has been considered and decided on petition for revision both in this and in other circuits.

Berry Bros. vs. Snowden, 209 Fed. 336 (9th Circuit).

Beach vs. Macon Grocery Co., 120 Fed. 736 (5th Circuit).

In re Garcewich, 115 Fed. 87 (2nd Circuit).

In re Young, 111 Fed. 158 (8th Circuit).

In re Lemon & Gale Co., 112 Fed. 296 (6th Circuit).

Mueller vs. Nugent, 184 U. S. 1.

Louisville Trust Co. vs. Comingor, 184 U. S. 18.

In re Purvine, 96 Fed. 192.

The petition for revision was filed seasonably. The bankruptcy act provides no time within which

the petition must be filed. Undoubtedly the application should be made within a reasonable time, in order that the bankruptcy proceedings be not delayed; but neither the act nor any rule of court determines the time.

In re New York Economical Printing Co.,
106 Fed. 839.

In re Goode, 99 Fed. 389.

In re Pettingil Co., 137 Fed. 840.

In re Mueller, 135 Fed. 711.

In re Holmes, 142 Fed. 391.

In re Groetzing, 127 Fed. 124.

ON MOTION FOR CONTINUANCE.

Since the questions presented by appeal and by petition for revision are similar, arising out of substantially the same transactions and facts, the appellate court should hear them together.

Ableman vs. Booth, 18 How. 470.

Bucki Lumber Co. vs. Atlantic Lb. Co., 93
Fed. 765.

Tansey vs. McDonald, 142 Mass. 220.

In re Williams, 36 Pac. 6 (Cal.). ..

The appellate court has discretion so to continue matters before it that the controversy may be settled as one and not piecemeal.

Bentley vs. Gay, 67 Ga. 667.

Wetmore vs. San Francisco, 47 Cal. 37.

Brown vs. Swann, 8 Pet. 435.

Hunter vs. Fairfax, 3 Dall. 305.

Respectfully submitted,

FRANK H. KELLEY,
RALPH WOODS,
Attorneys for Petitioner.

JOHN M. GEARIN,
Of Counsel.